

WRRTC MINUTES

Wisconsin River Rail Transit Commission
Executive Committee Mtg. – Friday, 5 January 2007 at 10:00 a.m.
Dane County Highway Garage, 2302 Fish Hatchery Road, Madison, WI

1. Karl Nilson, Acting Chair, called the meeting to order at 10:02 a.m.

2. Establishment of Quorum

County	Commissioner		XCOM	Jan. Mtg.
Crawford	Ted	Sheckler	Vice Chair	<input checked="" type="checkbox"/>
Crawford	Phillip	Mueller		<input type="checkbox"/>
Crawford	Tom	Cornford		<input type="checkbox"/>
Dane	Gene	Gray	1st Treasurer	<input checked="" type="checkbox"/>
Dane	Jim	Haefs-Flemming		<input type="checkbox"/>
Dane	Forrest	Van Schwartz	Advocate	<input checked="" type="checkbox"/>
Grant	Velma	Weadge	2nd Secretary	<input type="checkbox"/>
Grant	Doug	Eisele		<input checked="" type="checkbox"/>
Grant	Robert	Scallon		<input type="checkbox"/>
Iowa	Mark	Masters		<input type="checkbox"/>
Iowa	Charles	Anderson	Advocate	<input type="checkbox"/>
Iowa	Ron	Berg		<input type="checkbox"/>

County	Commissioner		XCOM	Jan. Mtg.
Rock	Steve	Eager		<input type="checkbox"/>
Rock	William	Agnew	1st Secretary	<input checked="" type="checkbox"/>
Rock	Alan	Sweeney		<input type="checkbox"/>
(alternate)	Ben	Coopman		<input checked="" type="checkbox"/>
Sauk	Rob	Sinklair	2nd Treasurer	<input checked="" type="checkbox"/>
Sauk	Joel	Gaalswijk		<input type="checkbox"/>
Sauk	Larry	Volz		<input type="checkbox"/>
(alternate)	Marcy	Huffaker		<input type="checkbox"/>
Walworth	Jerry	Grant		<input type="checkbox"/>
Walworth	Richard	Kuhnke	Advocate	<input checked="" type="checkbox"/>
Walworth	Allan	Polyock		<input type="checkbox"/>
Waukesha	Richard	Manke		<input type="checkbox"/>
Waukesha	Robert	Thelen, II		<input type="checkbox"/>
Waukesha	Karl	Nilson	Acting Chair	<input checked="" type="checkbox"/>

Others present for all or part of the meeting: Joni Graves (SWWRPC Transportation Planner / WRRTC staff); Jim Matzinger (Dane County CPA / WRRTC staff); Frank Huntington, Roger Larson, Claudia Orvis (WisDOT); Bill Gardner and Ken Lucht (WSOR); Mark Nesbitt (*Sauk Prairie Eagle*).

3. Motion accepting certification of public notice by Graves / Kuhnke / Eisele / Motion passed unanimously.

4. Motion approving the revised Agenda / Sheckler / Agnew / Motion passed unanimously.

5. No action taken on draft Minutes from the November Full Commission and December Executive Committee meetings since Commissioners received their packets late (there had been no mail delivery the preceding Monday for New Years Day and Tuesday in honor of former President Ford).

6. Public Comment: (a) Claudia Orvis, WisDOT Planning, was present as an observer. (b) Van Schwartz shared pictures of winter railroading in eastern Colorado and on the Plains.

7. Correspondence: (a) Letter from Governor Doyle in response to WRRTC's letter of support for WSOR's 8+3 Plan. (b) WRRTC had been copied on WisDOT's letter re WSOR's pending annual maintenance plan.

REPORTS & COMMISSION BUSINESS
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8. WisDOT Report – Huntington had no report but said February 1st would be the deadline for submitting grant and loan program applications. Larson said he would provide an update on the Charter Communications permit request later on the Agenda.

9. Wisconsin & Southern Railroad Operator's Report – Ken Lucht reported on WSOR's maintenance activities, including brush cutting on the Monroe, Fox Lake, and Elkhorn Subs. A rail detector test car on the Fox Lake Sub had identified 251 defects in 48 miles from Janesville-to-Fox Lake – the most heavily trafficked portion of the system. Approximately 70% of the defects were on 90-lb rail that is slated for replacement. WSOR will do additional testing on the Janesville Sub, where they plan to replace 1,000 ties / mile, and will use the test car on the Madison Sub next. With mild weather, they have continued to do spot replacement of ties at various locations. Maintenance work has been underway on bridges at Spring Green and Lone Rock. A leased "giraffe" is scheduled for use cutting branches on the Waukesha Sub. Lucht reported on derailment of 10 cars that morning, of an 88-car train on the Waukesha Sub. Most of the cars had been filled with grain there were no injuries or Haz-Mat issues. He said it underscored the importance of the maintenance projects. Approved capital projects include four bridge projects and material has been ordered

for the seven bridges located on the Fox Lake and Monroe Subs, with repair work scheduled to start this winter. Ties for the 2007 Horicon-to-Hartford project and rail for Walworth-to-Avalon replacement will be ordered shortly. Gardner said that to be competitive and efficient, the railroad has replaced old maintenance equipment to enable high-production tie-replacement and rail upgrades. WSOR continues to promote its “8+3 Plan” for segregated state funds for rehab and acquisition and will be providing information to new members of the Joint Finance Committee. Gardner reported on WSOR’s next plan, which will seek additional funding for reinstallation of rail to link communities that were formerly served. He said increasing the customer base depends upon expanding the system and this is in response to development interests that require rail. As an example, he projected there will be 7-10 ethanol plants on the system and grain that used to go overseas now stays in the region, while the distiller’s grain byproduct is trucked to the west coast and shipped to the Asian market.

WSOR had requested that WRRTC send a letter to the City of Waukesha requesting prompt action on its request that a fence, which had been erected across WSOR’s tracks, and stored rail cars be removed so WSOR can regain access to the Waukesha Industrial Park. Lucht thanked the Commission for the last-minute addition of the Waukesha issue on the Agenda. Gardner made a presentation detailing the site and explained that the City had granted a lease to Waukesha Electric, which had realigned trackage, installed a gate, and stored loaded rail cars which effectively bar WSOR from serving existing and prospective businesses in the industrial park. WSOR brought suit and the Judge determined Waukesha Electric was liable for the switch it had removed, but WSOR would have to sue the City to protect its inherited rights to the access since the City had entered into the lease with Waukesha Electric. WSOR had done so, but the City had not answered the complaint and had missed the filing date, so WSOR had filed a default injunction. Gardner said the City appears to recognize that granting the lease overstepped its bounds but there has been no progress in some six months, concluding that WSOR doesn't want to pick a fight but does want to serve customers within the industrial park. Huntington said staff could do some research on the agreements and Graves provided a quick summary of agreements that may be relevant. A draft letter to the Mayor and City Council was reviewed and Commissioners expressed support.

Motion directing (a) Huntington, Schaefer, Brownlee, and Graves to pursue finding related leases / agreements and (b) Graves and Lucht to send a letter to the Mayor, City Council, and others requesting removal of the fencing crossing the tracks and loaded rail cars that are used for storage so WSOR can regain access to the Waukesha Industrial Park / Gray / Sheckler / Motion passed unanimously.

The Commission took at 10-minute break at 11:12 a.m. and returned at 11:22 a.m.

- 10. Staff Report & Possible Action** – Joni Graves said (a) in the past two years the Commission submitted appropriations requests to Senator Kohl’s office and, although not funded, they had advanced further in the process than initially anticipated; however, with the new Congressional ban on earmarks there would be no request for applications for 2007. (b) Staff from Fitchburg and Oregon had requested a meeting, related to the rail line and efforts to settle insurance claims on bridge damage that had cut access to the south, and Graves will be joining Huntington. (c) She received a phone call over the holidays regarding a preliminary request to remove a crossing in the Village of Sauk City, which she had referred to WisDOT and WSOR for initial review. (d) There had been a preliminary request from Charter Communications for a utility service permit in Richmond, IL, and Lucht, Graves, and Larson had coordinated, the prospective applicant had not followed up on information provided by Larson. (e) The monthly usage report for www.wrtec.com was distributed. (f) The Executive Committee took action renewing its staff services agreement with SWWRPC for 2007:

Motion formally approving renewal of the 2007 staff services contract with SWWRPC, per WRRTC’s December meeting, for \$19,000 plus expenses / Van Schwartz / Kuhnke / Motion passed unanimously.

The Spring Grove issue was moved up on the Agenda.

- 11. Spring Grove progress update / recommendations related to removal of the building, disposal of contents, clarification of road ownership, property tax status, and any other related matters** – Van Schwartz reported on a meeting with representatives from the Village and Graves distributed copies of recent correspondence. Van Schwartz said the Village had been told that WRRTC would be amenable to quit-claim deeding the road on its property if the Village were to knock down the “old feed mill” structure and address any environmental issues. He said representatives from the Village seemed to act like this was all new to

them. The group had gone to the Village Hall and looked at historic photos, including a picture from 1900 that showed the road, and it is on a val map from about 1917. Village representatives had indicated they would go into executive session to discuss resolution. Van Schwartz said he had attempted to contact Commonwealth Edison about the electrical service with no success; Village staff agreed to contact CE too. Van Schwartz referred to the letter, sent on behalf of the Village, requesting that WRRTC not barricade the road. Van Schwartz said he had told Village representatives that WRRTC would seriously consider barricading the road to protect itself from liability. He has had several discussions with the Commission's legal counsel, Eileen Brownlee, and she agrees with what has been done so far.

Graves' provided some background on the tax statement, which had recently been received as "past due" for the structure. Van Schwartz asked for authorization to work with Brownlee to prepare a response. Nilson asked that, if there were no objections, Van Schwartz, Gray, and Coopman continue working on this and keep Graves in the loop, which was met by consensus support. Coopman recommended the Commission contest the taxes, referencing WRRTC's action at the last meeting. Matzinger said the Commission's check, which had been sent with a letter from Brownlee, had been returned. He reported that the current tax statement was for ~\$3200, but the parcel had been pulled for 2006 while the County researches the tax records. Lucht thanked the Commission for protecting the width of the ROW and pointed out that no tax bill on the structure had come to light during the Knaack's bankruptcy proceedings.

Coopman provided an update on their recent trip to empty the building. The equipment would not meet code and has no value; they removed merchandise which may have some sale value, brought it back for storage at Rock County, and he had arranged to broker it with an auctioneer as part of another auction. He said the building has been secured and he didn't see any environmental issues of concern. Gray provided Graves with the index file of the former owners' customers.

Van Schwartz said he wanted to continue his efforts to get the three-phase power turned off. Sinklair said he had been in the area at night and noted that the power line serves the only light on the long dark road, and it may be a benefit to keep it powered. In conclusion, Nilson asked that they continue to pursue these matters and keep Brownlee and Graves involved.

- 12. Financial Report & Possible Action** – Jim Matzinger, Dane County CPA / WRRTC staff, distributed the Treasurer's report, including a 12-month income statement. He said general expenses had included \$1,800 for inspection of the Sauk Bridge' piers and the statement reflected accrued funds for property taxes in Spring Grove (he will talk with the auditor to verify how to show that). He said the year-end numbers were not that bad, since the budget had anticipated a deficit of \$5400. With regard to the Walworth-to-Janesville project, he had requested the remaining funds from EWCRC, as directed at the last meeting. He provided an overview of the accounting for the 2004-2005 Hartford Project. [When the project scope was formally changed, WRRTC had committed additional funds but EWCRC had not. As the administering rail transit commission, EWCRC had continued to send invoices and reimbursement requests to WRRTC, which had continued to pay.] Matzinger said \$33,616.04 would be returned to WRRTC. Graves said WRRTC and PRTC's share of the 10% local match for the North-Milwaukee-to-Hartford project, based on the WisDOT-WSOR contract for the changed scope of work, was \$138,229.41, and in February 2006 the Commission said it would not contribute more than the 10%, but a total of \$217,376.60 was disbursed. Matzinger disputed the numbers and asked if it should be called a wash. Lucht said WSOR asks each rail transit commission to contribute 10% towards the local match but does not expect them to contribute more. Van Schwartz said WRRTC doesn't have responsibility for a dollar-amount above and beyond the WisDOT-WSOR agreement, but the improvements were in the ground now. Coopman asked whether the RTCs were signatories on the agreement and Huntington said it should be that way. Lucht said that had been the case with the Milton Junction project, but on this project each Commission had taken one or more formal actions related to funding but there were no formal agreements. He said that in the future WSOR wants to have formal agreements with each transit commission.

Motion approving payment of the bills, as presented / Gray / Sinklair / Motion passed unanimously.

Returning to the Treasurer's Report, Matzinger said the revised 2007 Budget projected an \$8,000 deficit for 2007. He said the budgeted local match contribution from EWCRC for 2007 was \$15,000 per county and WRRTC and PRTC member counties had each budgeted \$25,000. Van Schwartz said WRRTC had taken action to limit its contribution for work outside its region to no more than \$15,000 per county. Matzinger said he had

split out the money that WRRTC would contribute for internal and external projects in 2007. Van Schwartz said maybe each rail transit commission should be responsible for its own project and not send money back and forth. Nilson concluded that these project funding questions were not going to be resolved at this meeting.

Motion approving the 2007 budget, as presented / Van Schwartz / Sinklair / Motion passed unanimously.

Motion authorizing audit of WRRTC's 2006 financials / Eisele / Sheckler / Motion passed unanimously.

13. Pending Evansville-Oregon resumption-of-service agreements – no update.

14. Discussion / Possible Action on WSOR's recommendation that WRRTC seek Jefferson County's joinder (forwarded from the November meeting) – Lucht distributed a list of Jefferson County contacts and said there had been some discussions about this before WSOR took over the Watertown Line. He suggested this may be a good time to make contact again. After some discussion, it was agreed that several of the Commissioners would be at the statewide County Highway Meeting in late January and could report back on informal exploratory conversations. Van Schwartz said he would be willing to meet with the County's economic development director.

Motion asking Coopman, Van Schwartz, and others to informally test the waters with Jefferson County representatives regarding possible joinder / Sheckler / Kuhnke / Motion passed unanimously.

15. Update on local applications for WisDOT funding to replace bridges on the Fox Lake Sub – Lucht and Coopman provided an update on possible Walworth and Rock applications for the next funding cycle.

16. Scheduling WSOR's Annual Financial Report & Rail Inspection Tour – it was agreed to have the rail inspection tour on May 18th, departing from Madison by bus at 8:00 a.m.; closed session financial report from 9:00-9:30 a.m. aboard the train in Janesville (while other tour attendees tour the roundhouse); and returning from Janesville aboard WSOR's theatre car.

17. Agenda Items / Venue for the joint meeting with the Pink Lady RTC, planned for May 2007 in Sauk County – Graves summarized input from Dick Goddard and Virgil Kasper, Pink Lady RTC; Sinklair agreed to be part of the planning group.

18. WSOR's proposed presentation on railroad system changes (forwarded from the November meeting) – Lucht suggested incorporating this as part of the February Full Commission meeting.

19. Mazomanie Press Release; February 66-Committee mtg; scheduling "RR 101" workshop – Van Schwartz said he was (a) waiting until spring when the new park in Mazomanie had been developed. Gardner said parks and railroads are incompatible, and expressed concern about the process and outcome. Graves said the new Village President had requested that a copy of the invoice for the legal fees be sent to him and the Village Clerk. She asked Van Schwartz for clarification of whether the Commission was seeking reimbursement for \$500 or half of Brownlee's total bill for drafting the agreement documents; he said it was his understanding that Wirth had committed to pay \$500. (b) There was no update on the planned 66-Committee meeting. (c) Regarding "RR 101," Van Schwartz said he was planning on having it as part of the August full commission meeting.

20. FOLLOW-UP ITEMS: (a) Gardner said he would like WRRTC to support efforts by EWCRC to get Milwaukee County to join their Commission. (b) Lucht and Gardner requested that Graves and Nilson attend the January 10th EWCRC meeting, if possible. Related to rehab project cost-sharing issues, Huntington said it was his understanding that, since there will be 2007 rehab projects in both regions, EWCRC had questioned passing checks back and forth and suggested the accounting would be simpler if each Commission contributed to the project in its own region.

Motion asking Graves, and one or two Commissioners, to attend the January EWCRC meeting if schedules permitted / Kuhnke / Eisele / Motion passed unanimously.

21. The meeting adjourned by consensus at 1:00 p.m.